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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/353,942	12/12/1994	THOMAS J. SEGATTA	91221A	2501

7590 10/03/2003

BRUCE J. HENDRICKS
DEPARTMENT 823
THE GOODYEAR TIRE & RUBBER COMPANY
1144 EAST MARKET STREET
AKRON, OH 443160001

EXAMINER	
JOHNSTONE, ADRIENNE C	
ART UNIT	**PAPER NUMBER**
1733	33

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Arguments

1. Pursuant to the Remand under 37 CFR 1.193(b)(1) by the Board of Patent Appeals and Interferences on March 28, 2002, a supplemental Examiner's Answer is set forth below.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,174,838	Sandstrom et al.	12-1992
0 461 329	Borowczak et al. (Europe)	12-1991
1-135847	Hattori et al. (Japan)	05-1989
0 410 311	Stevens et al. (Europe)	01-1991
4,824,899	Yasuda	04-1989

Brief summary of the prior art

A. Sandstrom et al. '838 discloses a tire and a method of making a tire which are different from the conventional steel cord carcass radial tire and method in that a particular rubber blend is provided in the base tread component of the tire to increase the component's green strength and uncured viscosity, the rubber blend meeting the claimed composition limitations; Sandstrom et al. '838 also is evidence that it is well known in the tire art that increasing uncured viscosity and green strength in tire rubber blends is desirable for any tire component.

B. EP '329, JP '847, and EP '311 are evidence that tread rubber blends such as base tread rubber blends can also be used for bead parts such as the bead apex.

C. Yasuda discloses a tire and a method of making a tire which are different from the conventional steel cord carcass radial tire and method in that a particular rubber blend is

provided in the bead filler (apex) comprising 100 parts by weight of a blend of natural rubber and not more than 50% synthetic diene rubber such as polybutadiene rubber.

(11) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claims 1, 2, 4-6, and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandstrom et al. '838 in view of EP '329, JP '847, and EP '311.

Sandstrom et al. '838 discloses a tire and a method of making a tire which are different from the conventional steel cord carcass radial tire and method in that a particular rubber blend is provided in the base tread component of the tire to increase the component's green strength and uncured viscosity, the rubber blend meeting the claimed composition limitations (col. 1 line 11 - col. 3 line 55, col. 5 line 19 - col. 8 line 9). However, it is well known in the tire art that increasing uncured viscosity and green strength in tire rubber blends is desirable for any tire component (Sandstrom et al. '838 col. 2 lines 19-24 for example) and that tread rubber blends such as base tread rubber blends can also be used for bead parts such as the bead apex, as evidenced by EP '329 (p. 5 line 51 - p. 6 line 5: base tread and bead apex), JP '847 (translation p. 16 lines 18-20: under (base) tread and bead parts), and EP '311 (translation p. 4 line 1 - p. 7 line 10 and p. 9 line 20 - p. 12 line 10:tread and profiled core (bead apex)) for example. It would therefore have been obvious to one of ordinary skill in the art to use the Sandstrom et al. '838 base tread rubber blend in the bead apex of the conventional steel cord carcass radial tire in order to increase the bead apex uncured viscosity and green strength.

Claims 1, 2, 4-6, and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasuda in view of Sandstrom et al. '838.

Yasuda discloses a tire and a method of making a tire which are different from the conventional steel cord carcass radial tire and method in that a particular rubber blend is

provided in the bead filler (apex) comprising 100 parts by weight of a blend of natural rubber and not more than 50% synthetic diene rubber such as polybutadiene rubber (entire document). As discussed above, it is well known to increase uncured viscosity and green strength in any tire rubber component by using trans 1,4-polybutadiene in the rubber blend, as evidenced by Sandstrom et al. '838 (col. 1 line 65 - col. 2 line 24) for example, and Sandstrom et al. '838 discloses such a rubber blend which meets the claimed composition limitations (col. 1 line 11 - col. 3 line 55 and col. 5 line 19 - col. 8 line 9). It would therefore have been obvious to one of ordinary skill in the art to use the Sandstrom et al. '838 rubber blend as the rubber blend in the Yasuda bead filler (apex) in the conventional steel cord carcass radial tire and method in order to increase the bead apex uncured viscosity and green strength.

(13) Response to Argument

Appellants first argue that there is no certainty that the Sandstrom et al. '838 rubber blend would work effectively in the bead apex of a conventional steel cord carcass radial tire, and the declaration by Paul Harry Sandstrom filed February 2, 1994 sets forth his opinion that tread base rubber blends would not be used in the bead apex by one of ordinary skill in the art, however this is not persuasive because the prior art clearly shows that one of ordinary skill in the art would have a reasonable expectation of success and the basis for the opinion in the declaration is the comparison of *unclaimed* rubber properties determined by the composition as a whole rather than just the rubber blend recited in the claims (declaration is not commensurate in scope with the scope of the claims).

Appellants also argue that there is no motivation to combine the references, however the motivation is clearly set forth in the rejections above.

Appellants also argue that the combination based on Yasuda would not meet the claim limitations, however appellants' argument mischaracterizes the combination proposed by the examiner and therefore is not persuasive.

It is noted that the declaration by Paul Harry Sandstrom filed May 17, 1996 attempted to attribute to him the rubber blend in Sandstrom et al. '838 but was not sufficient because it did not identify the subject matter intended to be attributed to him (MPEP 716.10); upon reconsideration this declaration would be sufficient to place the application in condition for allowance with the addition of identifying the Sandstrom et al. '838 rubber blend as the subject matter intended to be attributed.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrienne C. Johnstone whose telephone number is (703)308-2059. The examiner can normally be reached on Monday-Friday, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703)308-2058. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Adrienne C. Johnstone
Primary Examiner
Art Unit 1733

Adrienne Johnstone

September 30, 2003